

No. 5:09-CR-210-2F

V.

## ORDER

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conviction or sentence, the defendant must show a "particularized need" for the documents. *See United States v. MacCollum*, 426 U.S. 317, 323-30 (1976); *Morin v. United States*, 522 F.2d 8, 9 (4<sup>th</sup> Cir. 1975). An indigent may be entitled to a transcript at the government's expense if he has stated a proper ground for relief and a transcript is indispensable. *United States v. Glass*, 317 F.2d 200, 202-203 (4<sup>th</sup> Cir. 1963). An indigent defendant is not entitled to transcripts at the government's expense "merely to comb the record in the hope of discovering some flaw." *Id.*

On October 5, 2009, Defendant pled guilty to felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Pursuant to the Plea Agreement, Defendant, knowingly and expressly, waived all rights to appeal conferred by 18 U.S.C. § 3742 including:

any issues that relate to the establishment of the advisory Guideline range, reserving only the right to appeal from a sentence in excess of the applicable advisory Guideline range that is established at sentencing, and further to waive all rights to contest the conviction or sentence in any post-conviction proceeding, including one pursuant to 28 U.S.C. § 2255, except an appeal or motion based upon grounds of ineffective assistance of counsel or prosecutorial misconduct not known to the defendant at the time of the Defendant's guilty plea.

In other words, Defendant retained his right to contest his conviction or sentence only on grounds of ineffective assistance of counsel or prosecutorial misconduct not known to him at the time he pled guilty.

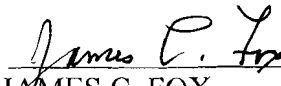
Here, Defendant does not assert that the challenge to his conviction and sentence is based upon ineffective counsel or prosecutorial misconduct, nor does he manifest a "particularized need" for the requested court documents. Defendant states only that he is "attempting to make a challenge to the conviction and sentence rendered in this Court" [DE-44].

Because Defendant's request for free copies of court documents shows neither a "particularized need" nor a proper ground for relief, his Motion to Receive Court Documents

[DE-44] free of charge is DENIED without prejudice to renew such request, if appropriate, upon the proper showing.

SO ORDERED.

This 20<sup>th</sup> day of December, 2010.

  
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JAMES C. FOX  
Senior United States District Judge